(b) [Reserved]

§ 776.44 Impartiality and decorum of the tribunal.

- (a) Impartiality and decorum of the tribunal. A covered attorney shall not:
- (1) Seek to influence a judge, court member, member of a tribunal, prospective court member or member of a tribunal, or other official by means prohibited by law or regulation;
- (2) Communicate ex parte with such a person except as permitted by law or regulation; or
- (3) Engage in conduct intended to disrupt a tribunal.
 - (b) [Reserved]

§ 776.45 Extra-tribunal statements.

- (a) Extra-tribunal statements: (1) A covered attorney shall not make an extrajudicial statement about any person or case pending investigation or adverse administrative or disciplinary proceedings that a reasonable person would expect to be disseminated by means of public communication if the covered attorney knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding or an official review process thereof.
- (2) A statement referred to in paragraph (a)(1) of this section ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, discharge from the Naval service, or other adverse personnel action, and the statement relates to:
- (i) The character, credibility, reputation, or criminal record of a party, suspect in a criminal investigation, victim, or witness, or the identity of a victim or witness, or the expected testimony of a party, suspect, victim, or witness;
- (ii) The possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by an accused or suspect or that person's refusal or failure to make a statement;
- (iii) The performance or results of any forensic examination or test or the refusal or failure of a person to submit to an examination or test, or the iden-

tity or nature of physical evidence expected to be presented;

- (iv) Any opinion as to the guilt or innocence of an accused or suspect in a criminal case or other proceeding that could result in incarceration, discharge from the Naval service, or other adverse personnel action;
- (v) Information the covered attorney knows or reasonably should know is likely to be inadmissible as evidence before a tribunal and would, if disclosed, create a substantial risk of materially prejudicing an impartial proceeding;
- (vi) The fact that an accused has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the accused is presumed innocent until and unless proven guilty; or
- (vii) The credibility, reputation, motives, or character of civilian or military officials of the Department of Defense
- (3) Notwithstanding paragraphs (a)(1) and (a)(2)(i) through (a)(2)(vii) of this section, a covered attorney involved in the investigation or litigation of a matter may state without elaboration:
- (i) The general nature of the claim, offense, or defense;
- (ii) The information contained in a public record;
- (iii) That an investigation of the matter is in progress, including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law or regulation, the identity of the persons involved:
- (iv) The scheduling or result of any step in litigation:
- (v) A request for assistance in obtaining evidence and information necessary thereto:
- (vi) A warning of danger concerning the behavior of the person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and
- (vii) In a criminal case, in addition to paragraphs (a)(3)(i) through (a)(3)(vi) of this section:
- (A) The identity, duty station, occupation, and family status of the accused: